



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	<b>02/27/03</b>	Bill No:	<b>SB 1059</b>
Tax:	<b>Property</b>	Author:	<b>Senate Committee on Revenue and Taxation</b>
Board Position:		Related Bills:	<b>AB 1744 (Assembly Revenue and Taxation Committee)</b> <b>SB 1062 (2003)</b> <b>SB 2086 (2002)</b>

### BILL SUMMARY

This California Assessors' Association sponsored omnibus property tax bill would:

- Update the timeframe when a notice of bulk sale must include a completed business property statement to conform to changes in the lien date and business property statement filing periods. *Commercial Code §6105*
- Require the State Board of Equalization (Board) to make and publish an estimate of the fiscal impact resulting from any proposed Board action, including Assessors' Handbooks and Letters to Assessors. *Government Code §15606*
- Authorize a board of supervisors to require that persons filing tentative maps provide a copy of the maps to the assessor. *§72*
- Increase the minimum amount of damage necessary to receive property tax deferral from \$5,000 to \$10,000, in conformance with Section 170. *§194*
- Related to the historical aircraft exemption:
  - Require taxpayers claiming the exemption to provide certificates of attendance indicating public display of the aircraft at least 12 days annually. *§220.5*
  - Allow an 80% partial exemption for exemption claims filed after the February 15 deadline but before August 1. *§276.5*
- Establish simplified annual filing for certain nonprofit cemeteries via the return of a postcard. *§256.6*
- Delete a requirement that a specific employee's name be listed as a contact person on a Notice of Proposed Escape Assessment. *§531.8*

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- Allow escape assessments to be noted on the roll for the current assessment year as either a notation on the physical document or an electronic copy. §533

## ANALYSIS

### Bulk Sales

#### Commercial Code Section 6105

### Current Law

Existing law requires that a completed business property statement must accompany a notice of bulk sale that is filed between March 1 and the last Friday in May.

### Proposed Law

This bill would amend Section 6105 of the Commercial Code Section to change the period of time during which a completed business property statement must accompany a notice of a bulk sale to those notices filed between January 1 and May 31.

### Comments

**Purpose.** This bill would update the dates specified in the code to conform to changes in the lien date (from March 1 to January 1) and last day to file the business property statement (from the last Friday in May to May 31).

### Fiscal Impacts – Board Actions

#### Government Code Section 15606

### Current Law

Government Code Section 15606 requires the Board to:

- Prescribe rules and regulations to govern assessors when assessing.<sup>1</sup> §15606(c)
- Prescribe rules and regulations to govern assessment appeals boards when equalizing.<sup>2</sup> §15606(c)
- Prescribe and enforce the use of all forms for the assessment of property for property taxation, including assessment appeal forms.<sup>3</sup> §15606(d)

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<sup>1</sup> Property Tax Rules 1 through 1051, (Title 18 of the California Code of Regulations).

<sup>2</sup> Property Tax Rules 301 through 326.

<sup>3</sup> See Assessors' Handbook 221 "Standard Form List" for a list of forms at <http://www.boe.ca.gov/proptaxes/pdf/ah2221-03.pdf>

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- Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation.<sup>4</sup> §15606(e)
- Prescribe rules and regulations to govern assessors and assessment appeals boards related to possessory interests.<sup>5</sup> §15606(g)

### Proposed Law

The bill would add subdivision (i) to Government Code Section 15606 to require that when the Board acts to perform any of above listed mandated duties the Board make and publish an estimate of the "fiscal impact".

### In General

In addition to regulations approved by the Office of Administrative Law, the Board uses the following methods to promote statewide uniformity in property tax assessment matters:

**Assessors' Handbooks.** The Assessors' Handbook is a series of manuals developed by the staff of the Board in an open process. The objective of the Assessors' Handbook is to give county assessors, their staff, and other interested parties an understanding of the principles of property assessment and real and personal property appraisal for property tax purposes. The Assessors' Handbook is intended to serve as a guide for the appraisal and assessment of real and personal property.

**Letters to Assessors.** Letters To Assessors provide an ongoing advisory service for county assessors and other interested parties. The letters present Board staff's interpretation of rules, laws, and court decisions on property tax assessment. They also include summaries of court rulings, legal opinions, highlights of enacted legislation, property tax rules, and technical bulletins for assessment problems.

**Forms.** Forms used for property tax purposes are annually reviewed and updated as needed to improve or modify as a result of any change in law. Board staff meets with the California Assessors' Association Forms Subcommittee multiple times per year to discuss and confer on form changes.

### Comments

1. **Sponsor and Purpose.** This bill is sponsored by the California Assessors' Association. The sponsors state that the Board of Equalization issues rules and

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<sup>4</sup> This is accomplished via the Assessors' Handbook and Letters to Assessors.

<sup>5</sup> Property Tax Rules 20 through 27 and Rule 462.080.

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interpretations of code that either "cost the counties money to implement or cost the state in lost revenue."

2. **Fiscal Impact.** According to the sponsors of this measure, the phrase "fiscal impact" is intended to include both a revenue estimate and an estimate of the administrative cost for the 58 local county assessors.
3. **The Board already prepares revenue estimates of any proposed regulatory action.** Thus, with respect to the revenue consequences of a regulation, this provision is consistent with the Board's current administrative practice.
4. **The Board's administrative practice is to prepare revenue estimates for any issue decided by the Members of the Board via its Property Tax Committee.** The purpose and objectives of the Property Tax Committee are to promote uniformity and consistency in property tax assessment and administration by providing guidance to assessors and their staff and other practitioners in this field through the Assessors' Handbook, property tax rules (regulations), and other written instructions. Property Tax Committee meetings are open to the public, and participation by county assessors, county counsels, local appeals boards, industry and organization representatives, taxpayers, and other interested parties is encouraged. Generally, before any matter is brought to the Property Tax Committee, one or more Interested Parties meetings on the pending subject matter have been held. Issues that could not be resolved via the Interested Parties meeting are decided by the Members of the Board after hearing testimony from interested parties. The staff prepares a formal "Issue Paper" on each issue when consensus could not be reached in the interested parties meeting process. If the issue has a revenue impact, a revenue estimate is prepared and included in the formal Issue Paper. Information about the Board's Interested Parties Meeting Process may be accessed at <http://www.boe.ca.gov/proptaxes/pdf/PTCmanual2-01.pdf>

Thus, with respect to revenue estimates, it is unclear what additional benefit this bill would serve. The Board is aware of the possible revenue impact of alternative decisions prior to taking action and this information is shared with interested parties prior to the public meeting. To prepare a revenue estimate on each and every administrative matter, including non-contentious issues or ministerial matters, such as updating forms, would not appear to be a prudent use of Board resources. This bill does not specify any use to which the required fiscal impacts might be subsequently put that would validate the use of such resources – i.e., such as a requirement that the state fund counties for any resulting revenue loss or administrative cost.

5. **The Board currently posts all of its Issue Papers with associated revenue estimates on its website.** Issue Papers dating back to 1999 are currently posted on the Board's website and may be accessed at <http://www.boe.ca.gov/meetings/meetings.htm#one>.

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6. **The phrase "board acts" is not defined.** The proposed language referring to "board acts" is not defined and could be interpreted to include not only acts of the elected Board Members, but various tasks performed by BOE staff. If so interpreted, any new or revised Letters to Assessors, Assessors' Handbooks, Training Materials, and Assessment Practice Survey recommendations, which are designed to promote uniformity throughout the state in the assessment of property for the purposes of taxation could require "fiscal impact" estimates. Furthermore, legal opinions, correspondence and conversations between assessors and their staffs and BOE staff, information presented in training classes and assessor conferences, and similar items that advise and assist assessors and their staffs are also performed for the purpose to promote uniformity throughout the state in the assessment of property for the purposes of taxation and could be interpreted to also require a fiscal impact estimate. If the phrase "board acts" is broadly interpreted then the cost and time to prepare fiscal impact analyses for each of these items could hinder and delay the ability of the BOE to work with assessors and their staff when advice and assistance from BOE staff is sought.
7. **Alternative Approach.** The property tax is locally administered. Generally the Board does not have direct access to detailed assessment roll information for each county nor does it have access to the county's property records without an on-site inspection. If possible, the Board uses data reported by each county and makes any necessary assumptions to prepare revenue estimates. However, often the data in the Board's possession does not provide a sufficient level of detail for the issue at hand. Consequently, the Board must often depend upon the input and cooperation of county assessors, and/or a sampling of county assessors, to prepare a revenue estimate for Issue Papers and proposed legislation. Because the county assessors are in control of the data at the local level, the better approach would seem to require that the assessor of each county prepare the revenue gain/loss information for their county and estimate their unique administrative costs. The Board could then compile and publish the information as this bill proposes. The county assessors are often the sole governmental agency in control and possession of the information needed to prepare a revenue estimate and only the county assessor would have knowledge about their unique processes to prepare an administrative cost estimate.
8. **County Administrative Costs.** While the Board routinely makes revenue estimates for Issue Papers and proposed legislation using the best available data, including individual county assessor's assistance, the Board has never attempted to quantify a county's administrative costs for proposed legislation, regulations or any other matter. To our knowledge other state agencies and the Legislature similarly do not attempt to quantify a particular county's costs to comply with a change in law or procedure but rather depend upon the local government affected for such information. The Board does not have detailed information about a county's current costs to be able to independently quantify a change to a county's procedures.

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9. **Related Legislation.** Identical provisions are contained in AB 1744 (Assembly Revenue and Taxation Committee), which is also sponsored by the Assessors' Association.

### **Tentative Maps**

#### *Revenue and Taxation Code Section 72*

#### **Current Law**

Under existing law when a parcel is split the assessor must allocate the assessed value of that property among the new parcels created.

#### **Proposed Law**

This bill would amend Section 72 of the Revenue and Taxation Code to authorize a board of supervisors to adopt an ordinance that requires a party that files an approved set of tentative maps with the county or a city to provide a copy of these maps to the assessor as soon as possible after the maps are filed.

1. **Purpose.** According to the sponsor, when a large parcel is split into one or more parcels it can be difficult to determine where existing improvements on the property are located in order to assign the improvements to the proper new parcel number and obtaining copies of these maps would aid in that process.
2. **The phrase "tentative maps" is not clear as to the type of the maps this bill is intended to address.** The sponsor may want to further define the phrase "tentative maps" to more clearly indicate that it relates to a map of a proposed split of a pre-existing parcel or place the provision in an area of law where such tentative maps are required and/or referred to. The section of code proposed to be amended, Section 72, relates to transmittal of building permit and building plans. Section 327.1, which was added to the code last year and also sponsored by the California Assessors' Association, authorizes a county board of supervisors to adopt an ordinance requiring a copy of a recorded digital subdivision map to be filed with the county assessor. This may be a more appropriate location for this provision. Would tentative maps that are not approved also be required to be filed with the assessor? The language states the maps are to be submitted as soon as they are filed.

### **Disaster Relief - Property Tax Deferral**

#### *Revenue and Taxation Code Section 194*

#### **Current Law**

Property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing the disaster relief provisions of Revenue and Taxation Code Section 170. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property after the lien date to recognize the loss in a property's market value. One of

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these conditions is that the sum of the full cash values of the land, improvements, and personalty before the damage or destruction exceeds the sum of the values after the damage by \$10,000 or more.

In addition, any property owner whose real property has been substantially damaged or destroyed in a Governor proclaimed state of emergency, and who has applied for property tax relief under Section 170, may apply to defer payment of property taxes on the next installment of the regular secured roll pursuant to Section 194 et seq. To qualify for deferral, for property receiving a homeowners' exemption, subdivision (f) of Section 194, defines "substantial disaster damage" as damage amounting to at least 10 percent of its fair market value or \$5,000, whichever is less. For all other property, the damage must be at least 20% of value

### **Proposed Law**

This bill would amend Section 194 of the Revenue and Taxation Code to update the minimum amount of damage to qualify for property tax deferral, from \$5,000 to \$10,000, consistent with the \$10,000 level for disaster relief under Section 170.

### **Comments**

**Purpose.** This threshold amount was increased from \$5,000 to \$10,000 by SB 1181 (Chapter 407, Stats. 2001), effective January 1, 2002. The damage threshold of \$5,000 is now outdated since the threshold to qualify for relief under Section 170 has been increased to \$10,000. Therefore, the \$5,000 threshold amount in Section 194(f) should be increased to \$10,000 to conform to the change made to Section 170 effective January 1, 2002.

**Related Bill.** This provision is also contained in SB 1062 (Senate Committee on Revenue and Taxation) and sponsored by the Board of Equalization.

### **Historical Aircraft**

*Revenue and Taxation Code Sections 220.5 and 276.5*

### **Current Law**

Revenue and Taxation Code Section 220.5 provides a property tax exemption for aircraft of historical significance. A one-time fee of \$35 is imposed with the initial application for exemption. Thereafter, Section 255 requires that persons re-file for the exemption each year by February 15. To qualify for the exemption the aircraft must be displayed to the public at least 12 days during the year.

If a person misses the filing deadline, the exemption is not available for that year. (Article XIII, Section 6 of the California Constitution and Section 260 provide that failure to claim an exemption is a waiver of the exemption for that year.)

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### Proposed Law

This bill would amend Section 220.5 to specify that persons claiming the exemption attach a certificate of attendance from the event coordinator of the event at which the aircraft was displayed.

This bill would also add Section 276.5 to the Revenue and Taxation Code to allow a partial exemption of 80% for claims for the aircraft of historical significance exemption filed after February 15 but on or before August 1.

### Comments

1. **Purpose.** The historical aircraft exemption was created in 1987 (Stats. 1987, Ch. 267, SB 95). The enacting legislation made no specific provisions for the general administration of the exemption and, therefore, did not provide for late filing. The following year, the Board sponsored legislation (Stats. 1988, Ch. 1271, AB 2878) to provide basic administrative provisions for the new exemption. Specifically, Section 254 was amended to require an annual claim form, Section 255 was amended to specify a filing deadline of April 1, and Section 259.11 was added to specify that the claim provide information that both the owner and the aircraft qualify for the exemption. Late filing was not included in this follow-up legislation. Documents related to this Board-sponsored legislation do not indicate whether or not late filing was considered. Los Angeles County indicates that 2 to 3 taxpayers miss the current deadline each year. The sponsors note that most other exemptions have late filing provisions and believe that the lack of a partial exemption for claims filed after the deadline is an oversight that should be corrected.
2. **Related Legislation.** Similar late-filing provisions were previously contained in SB 2086 (Senate Revenue and Taxation) of the 2001-02 Legislative year but were inadvertently chaptered out.
3. **Suggested Amendment.** Public aircraft show events are generally weekend events. Because it may take multiple events to reach the 12-day threshold, the following language is suggested.

When applying for an exemption pursuant to this section, the claimant shall attach to that application a certificate of attendance from the event coordinators of the event at which the aircraft was on displayed sufficient to attain the minimum number of days on display as required by this paragraph.

4. **Delay Effective Date.** The sponsors may wish to consider delaying the effective date of these provisions by one year to educate historical aircraft owners of the new requirement to obtain attendance certificates during the ensuing year to qualify for the exemption.

### Nonprofit Cemetery Exemption Revenue and Taxation Code Section 256.6

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### Current Law

Under existing law, Article XIII, Section 3(g) of the Constitution and Revenue and Taxation Code Section 204 provide for a property tax exemption of nonprofit cemeteries. The cemetery exemption is available on property used or held exclusively for the burial or other permanent deposit of the human dead and property used or held exclusively for the care, maintenance or upkeep of such property or such dead, except any such property that is used or held for profit.

Current law requires that a property qualifying for the cemetery exemption must have a new exemption claim filed on the property every year by February 15.

### Proposed Law

This bill would add Section 256.6 to the Revenue and Taxation Code to allow the property to requalify for cemetery exemption each year using a simplified annual filing process. Rather than re-filing a full claim each year, the cemetery operator would return a postcard sent to it by the assessor to renew the exemption for the following year.

The assessor would send the notice by January 1 and the cemetery operator would return the card by February 15, indicating that the property continues to be used for cemetery purposes.

### Background

Other exemptions where simplified annual re-filing is available include:

**Welfare Exemption.** Revenue and Taxation Code Section 254.5 provides simplified annual re-filing for property eligible for exemption pursuant to Section 214.15, which provides the welfare exemption to land holdings for the future construction of homes for sale to low-income persons, and also Section 231, which provides the welfare exemption for property owned by a nonprofit organization and leased to a governmental agency.

**Religious Exemption.** Revenue and Taxation Code Sections 257.1 provides simplified annual refiling for property eligible for the religious exemption.

### Comments

1. **Purpose.** Since property used for cemetery purposes rarely changes, this provision is intended to reduce the annual paperwork for both non-profit cemeteries and assessors offices to renew the cemetery exemption.
2. **This Bill Creates a Board Prescribed Form.** This bill would require the Board to prescribe the notice sent with the postcard to explain the circumstances under which the property would be disqualified from receiving the cemetery exemption.

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3. **Failure to Return the Postcard Would Not Automatically Result in the Loss of the Exemption.** Instead the assessor could inspect the property to verify it was still being used as a non-profit cemetery. This provision may assist certain situations, such as historical and pioneer cemeteries in which ownership of the cemetery is unknown or is in dispute, and no one is available to file an exemption claim on the property. Situations have occurred where these cemeteries have been subsequently sold for tax delinquency.

### **Notice of Proposed Escape Assessments - Specific Contact Information**

*Revenue and Taxation Code Section 531.8*

#### **Current Law**

Existing law requires that a "Notice of Proposed Escape Assessment" include the name and telephone number of a person at the assessor's office who is knowledgeable with respect to the proposed escape assessment or assessments and may be contacted with any questions with respect to the proposed assessment or assessments.

#### **Proposed Law**

This bill would amend Section 531.8 of the Revenue and Taxation Code to delete the requirement that a specific person's name be listed on notice.

#### **Comments**

The sponsors note that it is costly to program the computer systems to customize each Notice of Proposed Escape Assessment to list the specific name of a person rather than a more general-purpose notice.

### **Escape Assessments - Notation on Roll**

*Revenue and Taxation Code Section 533*

#### **Current Law**

Existing law requires that escape assessments enrolled on the current assessment roll include a notation which reads "Escaped assessment for year 19\_\_ pursuant to Sections \_\_\_\_ of the Revenue and Taxation Code" when the escape assessment is for another assessment year other than the current year.

The assessment roll generally lists the assessed value of all property located in the county for a particular fiscal year. Revenue and Taxation Code Section 1602 requires that the assessment roll, or a copy thereof, be made available for inspection by all interested parties during regular office hours. Sections 109.5 and 109.6 provide that the data included in the assessment roll may be electronically maintained so that no physical document need be prepared. But the data must be stored in a manner that can be made readily available to the public in an understandable form.

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### Proposed Law

This bill would amend Section 533 of the Revenue and Taxation Code to provide that the specified notation be made either on the hard copy of the roll or in an electronic format.

### Comments

Under the current method of electronic assessment rolls, it is not practical to implement Section 533 on the assessment roll itself which is basically a requirement intended for a physical paper format.

Interested parties can determine from other electronic sources maintained by the assessor and available at the assessor's office regarding any escape assessments.

### COST ESTIMATE

**Government Code §15606:** Pending – The Board currently prepares and posts revenue estimates for any action considered by the Board via a regulation or an Issue Paper matter. But there would be additional staffing costs for the Board to quantify the 58 counties' administrative costs to comply with any change in law reported via a Letter to Assessor's, via a regulation, change in a form, or any other additional cost due to any action by the Board.

**Other Sections.** The Board would incur some minor absorbable costs in informing and advising local county assessors, the public, and staff of the law changes and creating new proscribed forms.

### REVENUE ESTIMATE

This measure does not appear to have any direct revenue impact.

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